

2013 DRAFTING REQUEST

Bill

Received: 6/13/2013 Received By: jkreye
Wanted: As time permits Same as LRB:
For: Dana Wachs (608) 266-7461 By/Representing:
May Contact: Drafter: rkite
Subject: Environment - mining Addl. Drafters:
Nat. Res. - nav. waters Extra Copies:

Submit via email: YES
Requester's email: Rep.Wachs@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit mining of lake beds

Instructions:

Prohibit metallic mining of lake beds

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 8/13/2013	jdyer 8/15/2013	rschluet 8/15/2013	_____			
/P1	rkite 10/16/2013			_____	mbarman 8/15/2013		
/1	rkite 12/6/2013	jdyer 10/16/2013	rschluet 10/16/2013	_____	srose 10/16/2013		
/2		jdyer	rschluet	_____	lparisi	sbasford	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		12/9/2013	12/9/2013	_____	12/9/2013	12/11/2013	

FE Sent For:

↳ not
needed

<END>

2013 DRAFTING REQUEST

Bill

Received:	6/13/2013	Received By:	jkreye
Wanted:	As time permits	Same as LRB:	
For:	Dana Wachs (608) 266-7461	By/Representing:	
May Contact:		Drafter:	rkite
Subject:	Environment - mining Nat. Res. - nav. waters	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Wachs@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit mining of lake beds

Instructions:

Prohibit metallic mining of lake beds

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 8/13/2013	jdyer 8/15/2013	rschluet 8/15/2013	_____			
/P1	rkite 10/16/2013			_____	mbarman 8/15/2013		
/1	rkite 12/6/2013	jdyer 10/16/2013	rschluet 10/16/2013	_____	srose 10/16/2013		
/2		jdyer	rschluet	_____	lparisi		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		12/9/2013	12/9/2013	_____	12/9/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 6/13/2013 Received By: jkreye
Wanted: As time permits Same as LRB:
For: Dana Wachs (608) 266-7461 By/Representing:
May Contact: Drafter: rkite
Subject: Environment - mining Addl. Drafters:
Nat. Res. - nav. waters Extra Copies:

Submit via email: YES
Requester's email: Rep.Wachs@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit mining of lake beds

Instructions:

Prohibit metallic mining of lake beds

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 8/13/2013	jdye 8/15/2013	rschluet 8/15/2013				
/P1	rkite 10/16/2013	12/9 jld	jd		mbarman 8/15/2013		
/1		jdye 10/16/2013	rschluet 10/16/2013		srose 10/16/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received:	6/13/2013	Received By:	jkreye
Wanted:	As time permits	Same as LRB:	
For:	Dana Wachs (608) 266-7461	By/Representing:	
May Contact:		Drafter:	rkite
Subject:	Environment - mining Nat. Res. - nav. waters	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Wachs@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

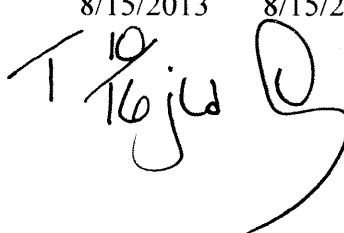
Topic:

Prohibit mining of lake beds

Instructions:

Prohibit metallic mining of lake beds

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 8/13/2013	jdyer 8/15/2013	rschluet 8/15/2013	_____			
/P1				_____	mbarman 8/15/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 6/13/2013

Received By: jkreye

Wanted: As time permits

Same as LRB:

For: Dana Wachs (608) 266-7461

By/Representing:

May Contact:

Drafter: rkite

Subject: Environment - mining
Nat. Res. - nav. waters

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Wachs@legis.wisconsin.gov

Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit mining of lake beds

Instructions:

Prohibit metallic mining of lake beds

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe	PI 8/15 jld	9				

FE Sent For:

<END>

Wachs
Rep Wachs — Bob Meyer (staff)

6-7-13

mineral extraction in or under waters of the state
minerals closer to the surface

— see memo from LC non waste lake
under new law could drain and refill a flowage
— is that a "significant" impact

* prohibit mining of lake beds

DNR drafting

for ideas -

particularly
concerned about Flowages

secs. 295.33 (4), oil & gas → Great Lake

EAU CLAIRE LEADER-TELEGRAM

24 Pages 2 Sections

Monday, April 8, 1974 Eau Claire, Wisconsin

Fifteen Cents

Home Edition

Company secretive about work

Drillers hunting metals in waters near Hayward

By Tom Lawin

HAYWARD — Anglers who trek to waters of the Tiger Cat flowage east of here will have little difficulty detecting something new.

A derrick-like structure with a diesel engine on it is prying samples of the land beneath these well-known waters where fishermen tease lurking muskies, walleyes and bass.

Tempered drills are busy probing 1,000 feet beneath the bed of this 224-acre flowage in the Town of Round Lake, for precious metals.

The Department of Natural Resources has given permission to the giant International Minerals and Chemical Co. (IMC) of Libertyville, Ill. to drill 50 holes 1,000 feet into the flowage bed in search of what a company official says "could be several metals."

Few clues given

Project Director Don Everhart from IMC corporate headquarters near Chicago would neither confirm nor deny if the company was seeking clues of copper, lead, zinc or veins of other metals on grounds that "our plans really are so vague at this time that we can't say exactly what we are looking for."

He did say that the company secured "enough options" after conducting intensive aerial flights at low altitudes over the area. Options, he said, have been signed on more than 1,000 acres in Sawyer County.

"With intense competition for discovering new fields it is best we don't divulge what we are doing," said Everhart.

A U. S. Department of the Interior official, John Rigg, who is chief of that agency's metal mining division, predicts northern Wisconsin and northeastern Min-

nesota by the year 2000 will be the site of the largest copper and nickel producing areas in the U.S.

The area which includes the Tiger Cat flowage region, is underlain by an extension of the Canadian Shield, a massive formation of Precambrian rock that has yielded millions of tons of metallic ores in Canada.

Drilling of the 50 test holes, according to Everhart, will take three years or more and will cost IMC around \$500,000. The company has vast mineral and chemical holdings in the U. S., Africa, Mexico and Canada, with special emphasis on phosphate extraction in Saskatchewan and Florida.

Each core sample will have diameters of 3-6 inches and all drilling will occur in Sections 16 and 17 of Sawyer Co.

Obtained DNR approval

The company in November 1973 received permission from the Wisconsin DNR to conduct its drilling operations that will continue year around, with floats used in summer and the drilling machine to be supported by winter ice.

Included in the IMC environmental impact report was a letter from Dennis R. Keeney, associate professor in the UW - Madison Department of Soil Science, who advised IMC environmental protection division director Dr. E. L. Lantz:

"The impact of obtaining the small three inch core samples as you plan should result in minimal impact (on the flowage floor) which would not even be measurable within a matter of a few hours after taking the sample. It also would not affect the biota (animal and plant life)."

Kenney's main concern was whether the drilling to

a depth of 1,000 feet below the flowage floor would release any natural gas from the substratum or open up artesian wells. This concern apparently was quieted by Dr. Meredith R. Ostrom, Wisconsin State Geologist, who notified Dr. Lantz that oil and gas are found in rocks younger than Precambrian and the only rocks in Sawyer Co. that fit this description are glacial deposits. Dr. Ostrom's assessment of the presence of oil or gas was that it was "extremely remote."

Yet, the DNR has issued a minimum of 16 rules IMC must follow when conducting its core drilling program now underway.

If bogs are dislodged, causing hindrance to navigation, wildlife and fish, IMC must rectify the situation at its own cost. Warning lights must be attached to the drilling rig as an aid to boaters; all spoil materials must be kept in leak-proof containers and disposed of in suitable on land areas; all pipe casings will be removed after each test hole is drilled and shall be filled and sealed in accordance with established DNR codes; any spillage of fuels must be reported at once to the DNR.

Drainage impoundment

Tiger Cat flowage, with a maximum depth of 11 feet, is a soft water drainage impoundment on the headwaters of the north fork of the Chief River. A 12-foot head water control structure at the outlet controls levels of Upper and Lower Twin Lakes, Burns Lake and Placid Lake. The fish population includes muskies, walleyes, bass and panfish. Rooted aquatic vegetation growth is extensive and numerous bogs and conifer-shrub swamp wetlands border the flowage.

Company environmentalists said "no long term or permanent disturbance of the environment is anticipated; the proposed project is of a temporary nature and it is believed that any effects would endure only as long as the project itself."

Noise levels from the drilling rig's diesel engine is comparable to a farm tractor, Everhart reported.

According to a company report filed with the DNR, "investigation has shown that the fish population actually increases around such a (drilling) rig during the time it is located and operated in an area of fish life."

Benefits listed

The company said in its environmental impact statement that "the potential benefits resulting from a subsequent mining operation would be to provide a source of domestic minerals, provide additional tax revenue and provide significant fulltime employment in an area where unemployment is a problem."

If a viable potential mining operation is indicated on the basis of extracted core samples, Everhart explained the metals would be extracted from beneath the bed of the Tiger Cat Flowage by digging a long tunnel at an angle from an entrance on land.

In summer, drilling platforms will be towed and pushed into place with a boat and motor; none of the drill sites are located on floating bogs, but some drilling will occur in swamp grass and - or lily pad beds.

If a boat cannot be used to spot the drilling rigs, then rigs will be put into place with use of a helicopter. In this operation some float-

ing bogs might be dislodged or broken up. The company has agreed to "collect and dispose of the bogs on shore."

Temporary turbidity of the water will result when the shaft is sunk into the flowage bottom or when helicopters are in use; company geologists estimate bedrock will be encountered 100 feet below the flowage floor.

Each of the 50 holes take 45-60 days to drill and costs will average about \$10 a foot, the company estimates.

Drilling operations are expected to be conducted around the clock until the 45 test holes are bored.

Rep. Wachs / Aide - Bob - Meeting on 7/24
302 N

All mining - prohibit mining ~~in~~ in flowages

concern that company will drain flowage
expensive home along shore of flowage
mineral rights usually not owned by
home owners
can mine on angle (underneath home)

mineral rights owned by others
homes worth many millions

eg. Cheppewa Flowage
Lake Altoona
Lake Holcomb

home owners are largely out of state in
many of these flowages

Intention is to prevent mining company
from draining a flowage for the purpose
of mining

mine at angle from water

let water out of flowage & then
fill

no mining lake bed -
flowage

(all) mining

@ 10:30 - Rep Wachs



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2527/0

RNK:.....

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

In 8/13 ✓
Gen
1 AN ACT ...; relating to: prohibiting mining activities that require the withdrawal
2 of water from a flowage. ✓

Analysis by the Legislative Reference Bureau

✓ This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 30.185 ✓ of the statutes is created to read:
4 30.185 Mining activities affecting flowages. ✓ No person may conduct a
5 mining activity in, or on land beneath, a flowage if that mining activity requires the
6 person to withdraw water from the flowage. ✓
7 SECTION 2. 293.13 (2) (d) 4. ✓ of the statutes is amended to read:
8 293.13 (2) (d) 4. Irreparable environmental damage to lake or stream bodies
9 or to flowages despite adherence to the requirements of this chapter. ✓ This

1 subdivision does not apply to an activity which the department has authorized
2 pursuant to statute, except that the destruction or filling in of a lake bed or the
3 withdrawal of water from a flowage shall not be authorized notwithstanding any
4 other provision of law.

History: 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

5 **SECTION 3.** 295.33 (4m) of the statutes is created to read:

6 295.33 (4m) No person may conduct drilling operations for the exploration for
7 or production of oil or gas if the drilling requires the withdrawal of water from a
8 flowage.

History: 1991 a. 262; 1995 a. 227 s. 814; Stats. 1995 s. 295.33; 2001 a. 10.

9 **SECTION 4.** 295.605 (4) (a) 5. of the statutes is created to read:

10 295.605 (4) (a) 5. The navigable water activity will not require the withdrawal
11 of water from a flowage.

12 **SECTION 5.** 295.75 (2) (c) of the statutes is created to read:

13 295.75 (2) (c) If there is a conflict between a provision in this subchapter and
14 s. 30.185, s. 30.185 controls.

15 (END)

d-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

date

LRB-2527/1dn

RNK:.....

JK

This draft prohibits a person from engaging in mining activities that require the withdrawal of water from a flowage. The draft does not otherwise prohibit mining in a flowage if that mining is authorized under the law. Please let me know if this approach is consistent with your intent.✓

The law as it applies to flowages is complicated. Generally, the water that constitutes the flowage, if navigable, is protected by the public trust doctrine. However, because the land underneath a flowage is not a natural lakebed, that land may be privately owned and public rights in that land may be limited. Given the complexity of this issue, I recommend that you request that the appropriate expert at DNR review this draft to ensure that this proposal, if implemented, will accomplish your objectives.✓

This draft is in preliminary form to facilitate any revisions that you might like to make to the draft. Please let me know if you have any questions.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2527/P1dn
RNK:jld:rs

August 15, 2013

This draft prohibits a person from engaging in mining activities that require the withdrawal of water from a flowage. The draft does not otherwise prohibit mining in a flowage if that mining is authorized under the law. Please let me know if this approach is consistent with your intent.

The law as it applies to flowages is complicated. Generally, the water that constitutes the flowage, if navigable, is protected by the public trust doctrine. However, because the land underneath a flowage is not a natural lakebed, that land may be privately owned and public rights in that land may be limited. Given the complexity of this issue, I recommend that you request that the appropriate expert at DNR review this draft to ensure that this proposal, if implemented, will accomplish your objectives.

This draft is in preliminary form to facilitate any revisions that you might like to make to the draft. Please let me know if you have any questions.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

10/16/13

Rep. Wachs / Bob Meyer - LRB 2527

302 N

Redraft as /1

OK to talk to Clark's office & Larry Konopacki



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2527/P1
RNK:jld:rs

RM
run
1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2013 BILL

In
10/16

X

Regen

1 AN ACT *to amend* 293.13 (2) (d) 4.; and *to create* 30.185, 295.33 (4m), 295.605
2 (4) (a) 5. and 295.75 (2) (c) of the statutes; **relating to:** prohibiting mining
3 activities that require the withdrawal of water from a flowage.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.~~

ENS. ✓
ANALYSIS →

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 30.185 of the statutes is created to read:
5 **30.185 Mining activities affecting flowages.** No person may conduct a
6 mining activity in, or on land beneath, a flowage if that mining activity requires the
7 person to withdraw water from the flowage.
8 SECTION 2. 293.13 (2) (d) 4. of the statutes is amended to read:
9 293.13 (2) (d) 4. Irreparable environmental damage to lake or stream bodies
10 or to flowages despite adherence to the requirements of this chapter. This

1 subdivision does not apply to an activity which the department has authorized
2 pursuant to statute, except that the destruction or filling in of a lake bed or the
3 withdrawal of water from a flowage shall not be authorized notwithstanding any
4 other provision of law.

5 **SECTION 3.** 295.33 (4m) of the statutes is created to read:

6 295.33 (4m) No person may conduct drilling operations for the exploration for
7 or production of oil or gas if the drilling requires the withdrawal of water from a
8 flowage.

9 **SECTION 4.** 295.605 (4) (a) 5. of the statutes is created to read:

10 295.605 (4) (a) 5. The navigable water activity will not require the withdrawal
11 of water from a flowage.

12 **SECTION 5.** 295.75 (2) (c) of the statutes is created to read:

13 295.75 (2) (c) If there is a conflict between a provision in this subchapter and
14 s. 30.185, s. 30.185 controls.

15 (END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2527/1
RNK:.....

INSERT ANALYSIS

This bill prohibits a person from conducting a mining activity in a flowage or on land beneath a flowage if the mining activity requires a person to withdraw water from the flowage. A flowage is a body of water formed by intentional flooding, such as flooding caused by the construction of a dam or other barrier.✓

Kite, Robin

From: Konopacki, Larry
Sent: Friday, November 22, 2013 10:33 AM
To: Kite, Robin
Cc: Rep. Wachs; Meyer, Bob; Henning, Anna
Subject: LRB 2527/1

Hi Robin, could you please make the following changes to Rep. Wachs' LRB 2527/0?

- Eliminate Section 1
- Revise Section 2, lines 1 and 2: "Irreparable environmental damage to lake or stream bodies or to reservoirs or flowages despite. . ."
- Revise Section 2, lines 4 and 5: ". . . filling in of a lake bed, reservoir, or flowage or the withdrawal of water from a reservoir or flowage shall not be authorized. . ."
- Revise or replace Section 4 to similarly provide that ". . . filling in of a lake bed, reservoir, or flowage or the withdrawal of water from a reservoir or flowage shall not be authorized. . ." under the ferrous mining statutes.
- Eliminate Section 5

Thanks Robin!

Larry

Larry A. Konopacki
Wisconsin Legislative Council
(608) 267-0683
larry.konopacki@legis.wisconsin.gov



2013 BILL

In
 12/6

regen. cat.

cause the destruction or filling in
 of a lake bed, reservoir, or flowage or that
 cause

- 1 AN ACT to amend 293.13 (2) (d) 4.; and to create 30.185, 295.33 (4m), 295.605
 2 (4) (a) 5. and 295.75 (2) (c) of the statutes; relating to: prohibiting ^{certain} mining
 3 activities that require the withdrawal of water from a flowage. ^{reservoir or} ^{and drilling}

Analysis by the Legislative Reference Bureau

This bill prohibits a person from conducting a mining activity in a flowage or on land beneath a flowage if the mining activity requires a person to withdraw water from the flowage. A flowage is a body of water formed by intentional flooding, such as flooding caused by the construction of a dam or other barrier.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 SECTION 1. 30.185 of the statutes is created to read:
 5 30.185 Mining activities affecting flowages. No person may conduct a
 6 mining activity in, or on land beneath, a flowage if that mining activity requires the
 7 person to withdraw water from the flowage.

- 8 SECTION 2. 293.13 (2) (d) 4. of the statutes is amended to read:

INS.
 Analysis

BILL

SECTION 2

1 293.13 (2) (d) 4. Irreparable environmental damage to lake or stream bodies
2 or to ^{reservoirs or} ~~flowages~~ despite adherence to the requirements of this chapter. This
3 subdivision does not apply to an activity which the department has authorized
4 pursuant to statute, except that the destruction or filling in of a lake bed or the
5 withdrawal of water from a flowage shall not be authorized notwithstanding any
6 other provision of law. ^{reservoir or} reservoir or flowage

7 SECTION 3. 295.33 (4m) of the statutes is created to read:

8 295.33 (4m) No person may conduct drilling operations for the exploration for
9 or production of oil or gas if the drilling requires the withdrawal of water from a
10 ^{reservoir or} ~~flowage~~.

11 ~~SECTION 4. 295.605 (4) (a) 5. of the statutes is created to read:~~

12 ~~295.605 (4) (a) 5. The navigable water activity will not require the withdrawal~~
13 ~~of water from a flowage.~~

14 ~~SECTION 5. 295.75 (2) (c) of the statutes is created to read:~~

15 ~~295.75 (2) (c) If there is a conflict between a provision in this subchapter and~~
16 ~~s. 30.185, s. 30.185 controls.~~

17 (END)

INS.
2-16

LEGISLATIVE REFERENCE BUREAU

the Department of Natural Resources
INSERT ANALYSIS

Current law prohibits a person engaged in ✓ nonferrous metallic mining from destroying or filling in a lake bed. Current law ✓ also prohibits a person engaged in ferrous metallic mining from destroying or filling in a lake bed except as authorized by DNR under the authority of certain other specified statutes. This bill eliminates this exception. The bill also expands the prohibitions in current law so that a person engaged in nonferrous metallic mining or ferrous metallic mining is also ✓ prohibited from destroying or filling in a reservoir or flowage or from withdrawing water from a reservoir or flowage.

This bill also prohibits ✓ a person from conducting drilling operations for the exploration for or production of oil or gas if the drilling requires the withdrawal of water from a reservoir or flowage.

INSERT 2-16

requires

1 **SECTION 1.** 295.58 (2) (b) 2. ✓ of the statutes, as created by 2013 Wisconsin Act
2 1, is amended to read:

3 295.58 (2) (b) 2. Irreparable substantial environmental damage to lake or
4 stream bodies despite adherence to the requirements of this subchapter. This
5 subdivision does not apply to an activity that the department has authorized under
6 statute, except that the destruction or filling in of a lake bed, ✓ reservoir, or flowage
7 or the withdrawal of water from a reservoir or flowage ✓ may not be authorized unless
8 it is authorized under notwithstanding s. 295.60, 295.605, or 295.61.

Rose, Stefanie

From: Meyer, Bob
Sent: Wednesday, December 11, 2013 8:10 AM
To: LRB.Legal
Subject: Draft Review: LRB -2527/2 Topic: Prohibit mining of lake beds

Please Jacket LRB -2527/2 for the ASSEMBLY.